

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ONEIDA TRIBE OF INDIANS OF WISCONSIN,

Plaintiff,

v.

Case No. 05-C-0177

LESTER HARMS d/b/a WORLDShadow,

Defendant.

ORDER

The Oneida Tribe of Wisconsin sued Lester Harms for trademark, unfair competition, and cybersquatting offenses. I previously dismissed Harms' counterclaims under Fed. R. Civ. P. 12(b)(6). The Tribe now brings a motion for summary judgment. For the reasons set forth below, the motion will be granted.

Summary judgment is proper when there are no genuine issues of material fact and when the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56. In this case, there appear to be no disputed facts. In fact, in response to the plaintiff's motion, Harms only states that he believed the parties were close to settlement and that he does not believe there is a need for judgment because his domain name has expired and he does not intend to ever use it again. He also raises the specter of Rule 11, suggesting that this lawsuit was not authorized by the proper tribal authorities. Whatever the truth of Harms' arguments, nothing calls into question the fact that Harms has infringed the plaintiff's trademarks or that the plaintiff is entitled to the relief it seeks, namely, a permanent injunction preventing Harms from infringing in the future.

Accordingly, the Tribe's motion for summary judgment is granted. It is hereby ordered and adjudged that:

The Oneida Tribe is the owner of the following trademarks: ONEIDA, ONEIDA and Design (registered as Reg. No. 3,016,505) and ONEIDA ONE STOP. Collectively, these trademarks and registration are referred to as "the Oneida Trademarks." Defendant and his agents, employees, servants, representatives, successors and assigns and affiliates, and any and all persons acting in concert with them (collectively "the Enjoined Persons") are permanently enjoined from directly or indirectly using, or aiding, abetting, or inducing any third party to use, without authorization,

- (a) any of the Oneida Trademarks, either alone or in combination with other words or design elements;
- (b) any colorable imitation or variation of any of the Oneida Trademarks; or
- (c) misspellings, derivations, variations, composites, or other distorted versions of any of the Oneida Trademarks;

on or in connection with any products or services not originating entirely with the Oneida Tribe, or as part of any URL, domain name, directory name, or other computer address, or as part of the name of any web-site service, or in buried code or metatags in any home page or web pages.

Unless a request for additional relief is made within the next seven days, the clerk shall enter a final judgment consistent with this order.

Dated this 8th day of May, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge